

JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

BRIAN MASTERS

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

(b) County of Residence of First Listed Plaintiff _____

County of Residence of First Listed Defendant _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|---------------------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 800 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609				

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. SECTION 1692

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

04/30/12

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

BRIAN MASTERS	:	CIVIL ACTION
	:	
v.	:	
	:	
NCO FINANCIAL SYSTEMS, INC.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

04/30/12
Date

Craig Thor Kimmel
Attorney-at-law

Plaintiff, Brian Masters
Attorney for

215-540-8888
Telephone

877-788-2864
FAX Number

kimmel@creditleaw.com
E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 3111 Parker Ln., Apt. 247, Austin TX 78741

Address of Defendant: 407 Prudential Rd., Horsham PA 19044

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases 15 U.S.C. § 1692
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

I, Craig Thor Kimmel, (Check Appropriate Category)
counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 04/30/12

Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

57100

Attorney I.D.#

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 04/30/12

Attorney-at-Law

57100

Attorney I.D.#

BRIAN MASTERS,

Plaintiff

v.

NCO FINANCIAL SYSTEMS, INC.,

Defendant

)
)
)
)
) **Case No.:**
)
) **COMPLAINT AND DEMAND FOR**
) **JURY TRIAL**
)
) **(Unlawful Debt Collection Practices)**

BRIAN MASTERS ("Plaintiff"), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC. ("Defendant"):

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

1 five (5) times a day.

2 15. As a result, Plaintiff received more than ten (10) collection calls a week during
3 the relevant period.

4 16. Plaintiff received numerous collection calls from the following telephone number:
5 (888) 289-4757, which the undersigned has confirmed is a telephone number belonging to
6 Defendant.

7 17. In addition to calling Plaintiff, Defendant would also leave voice mail messages
8 on Plaintiff's home answering machine every day telling Plaintiff to contact Defendant.

9 18. At first, Plaintiff answered Defendant's telephone calls and instructed Defendant
10 to stop contacting him; however, Defendant ignored Plaintiff's instructions and continued to
11 contact him.

12 19. Then, Plaintiff tried answering Defendant's telephone calls and hanging up;
13 however, Defendant would immediately call him back, having the intent to harass Plaintiff.

14 20. Most recently, Defendant contacted Plaintiff on March 28, 2012, at 10:30 a.m.

15 21. Additionally, Plaintiff spoke with one of Defendant's collectors.

16 22. During that conversation, Defendant's collector deceptively told Plaintiff that not
17 paying the debt will cause him to lose his job.

18 23. Further, Defendant's collector threatened Plaintiff that Defendant would file suit
19 against him if he did not pay the alleged debt.

20 24. At the time Defendant's collector made this statement to Plaintiff, Defendant did
21 not intend to take legal action against Plaintiff. Moreover, upon information and belief,
22 Defendant did not have authorization from the creditor to take legal action against Plaintiff.

23 25. Finally, Defendant was seeking to collect approximately \$2,300.00 from Plaintiff.
24
25

1 26. Upon information and belief, the amount Defendant was seeking to collect
2 included amounts, interest, fees, etc., which were not authorized by the agreement creating the
3 debt, as the credit limit on the account was only \$1,200.00.

4 27. Defendant's actions in attempting to collect the alleged debt were harassing,
5 abusive and highly deceptive.
6

7 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

8 28. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or
9 more of the following ways:
10

11 **COUNT I**

- 12 a. A debt collector violates §1692d of the FDCPA by engaging in conduct the
13 natural consequence of which is to harass, oppress, or abuse any person in
14 connection with the collection of a debt.
- 15 b. A debt collector violates §1692d(5) of the FDCPA by causing a telephone to
16 ring or engaging any person in telephone conversation repeatedly or
17 continuously with intent to annoy, abuse, or harass any person at the called
18 number.
- 19 c. Here, Defendant violated §§1692d and 1692d(5) of the FDCPA, when it
20 contacted Plaintiff on his home telephone, on average, two (2) to five (5)
21 times a day between January 2012 through March 2012, with the intent to
22 annoy, abuse and harass Plaintiff.
- 23 d. Further, Defendant violated §1692d by continuing to contact Plaintiff on his
24 home telephone after having been instructed by Plaintiff to stop calling
25 Plaintiff. When contacting Plaintiff, Defendant had the intent to annoy, abuse

1 and harass him.

- 2 e. Lastly, Defendant violated §1692d by immediately calling Plaintiff back after
3 Plaintiff answered the phone and hung up, knowing that it would annoy,
4 abuse and harass Plaintiff to do so.

5 **COUNT II**

- 6 a. A debt collector violates §1692e of the FDCPA by using false, deceptive or
7 misleading representations or means in connection with the collection of any
8 debt.
9
10 b. A debt collector violates §1692e(5) of the FDCPA by threatening to take any
11 action that cannot legally be taken or that is not intended to be taken.
12
13 c. A debt collector violates §1692e(10) of the FDCPA by using false
14 representations or deceptive means to collect or attempt to collect any debt.
15
16 d. Here, Defendant violated §§1692e and 1692e(5) by threatening to take legal
17 action against Plaintiff when it did not intent not to do, and upon information
18 and belief, did not have authorization from the creditor to take legal action
19 against Plaintiff.
20 e. Also, Defendant violated §§1692e and 1692e(10) by falsely claiming that
21 Plaintiff would lose his job if he did not pay the alleged debt.

22 **COUNT III**

- 23 a. A debt collector violates §1692f of the FDCPA by using unfair or
24 unconscionable means to collect or attempt to collect any debt.
25
26 b. Here, Defendant violated §1692f of the FDCPA engaging in other unfair and
unconscionable debt collection practices, including collecting an amount more

1 than twice the credit limit on the account.

2 WHEREFORE, Plaintiff, BRIAN MASTERS, respectfully prays for a judgment as
3 follows:

- 4 a. All actual compensatory damages suffered pursuant to 15 U.S.C.
5 §1692k(a)(1);
6 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant
7 to 15 U.S.C. §1692k(a)(2)(A);
8 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
9 costs incurred by Plaintiff pursuant to 15 U.S.C. §1693k(a)(3); and
10 d. Any other relief deemed appropriate by this Honorable Court.
11

12 **DEMAND FOR JURY TRIAL**

13 PLEASE TAKE NOTICE that Plaintiff, BRIAN MASTERS, demands a jury trial in this
14 case.

15
16 DATED: 04/30/12

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

17 By: 

18 CRAIG THOR KIMMEL

Attorney ID # 57100

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Ambler, PA 19002

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